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Board Case No. MD-03-0826A

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Letter of Reprimand)

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1 remove himself from the practice of medicine and undergo an inpatient evaluation and
2 any recommended treatment. Respondent agreed with Dr. Sucher's recommendations
3 and, on August 28, 2003, signed an Interim Consent Agreement for Practice Restriction
4 and Inpatient or Residential Evaluation/Treatment ("Interim Consent Agreement"). The
5 Board's Executive Director executed the Interim Consent Agreement on August 29, 2003.

6 5. The Interim Consent Agreement required Respondent to undergo the
7 evaluation at Banner Behavioral Health ("Banner.") However, Respondent did not
8 present to Banner as required, instead he presented to Desert Canyon, a treatment
9 center that utilizes a rational recovery method of treatment. The Board has not approved
10 of either rational recovery or Desert Canyon.

11 6. Respondent testified that he appreciated the opportunity to address the
12 Board and explain why he made the decision to present to Desert Canyon. Respondent
13 testified that he had previously discussed with the Board his having violating the Interim
14 Consent Agreement. Respondent asked the Board to consider a variety of factors that
15 influenced his decision to go to Desert Canyon rather than the traditional 12-Step
16 Program offered by Banner. Respondent testified that when he was first offered the
17 Interim Consent Agreement he was in the process of evaluating what was the best
18 treatment for his problem. Respondent noted that his previous experience with the 12-
19 Step Program was very negative. Respondent testified that he signed the Interim
20 Consent Agreement with the underlying threat of having his license summarily
21 suspended.

22 7. Respondent testified that when he returned the signed Interim Consent
23 Agreement to the Board he included a cover letter stating that he was still evaluating the
24 different programs and was interested in Desert Canyon. Respondent stated that he also
25 provided Dr. Sucher with information about Desert Canyon asking if it could be approved

1 and he did not receive a response. Respondent testified that he ultimately wrote a letter
2 to the Board's Executive Director and explained his reasons for deciding to go to Desert
3 Canyon rather than Banner.

4 8. Respondent testified that he believed he honored the spirit of the Interim
5 Consent Agreement, maybe not the letter, but he believed the goal of the Interim Consent
6 Agreement was to get him better and after evaluating the different possibilities he chose
7 to go to Desert Canyon. Respondent stated that he chose Desert Canyon for his health
8 because in the long term he cannot be a doctor if he is not sober. Respondent noted that
9 throughout the process he provided information to the Executive Director and during
10 treatment he wrote weekly letters to the Board with data and studies about the program
11 he was enrolled in.

12 9. Respondent testified that over the past couple of months he had continued
13 to provide the Board with further research and documentation about the Desert Canyon
14 program and voluntarily underwent a supervised hair drug test to provide documentation
15 of his non-use of any opiates and several other drugs. Respondent testified that he
16 believed that Dr. Sucher would be recommending that the Board approve Desert Canyon
17 as a treatment center. Respondent testified that he would like to close this chapter of his
18 life. Board Staff noted that they were unaware of Dr. Sucher having made any decision
19 regarding whether to accept Desert Canyon as an evaluation/treatment center.

20 10. Respondent was asked when he was first treated for chemical dependency.
21 Respondent testified that it was probably in 1984 or 1985. Respondent was asked what
22 type of treatment he underwent at that time. Respondent stated that he underwent an
23 inpatient 12-Step program for physicians. Respondent testified that he relapsed one
24 month after completing the program and then returned to the program and remained for a
25 second period of four months.

1 11. Respondent testified that after completing the program a second time he
2 remained sober until approximately August 2003 when he was brought to the attention of
3 the Board. Respondent was asked why he would believe the 12-Step program would not
4 offer him an opportunity for success when the 12-Step program he completed in the
5 1980s led to approximately twenty years of sobriety. Respondent stated that although he
6 had a reasonable success he was not really participating in the 12-Step program and that
7 he pretty much succeeded on his own. Respondent testified that once he went through
8 Desert Canyon's rational recovery approach he found that the rational recovery approach
9 is that people begin to learn those behaviors that caused them to act and to take
10 medications and ways to avoid doing that. Respondent stated that he discovered his
11 recovery in the 1980s was done using the rational recovery approach and he had not
12 even known it at the time.

13 12. Respondent was asked if he read the Interim Consent Agreement prior to
14 signing it. Respondent stated that he had and that he understood the gist of the Interim
15 Consent Agreement, but that some of the legalities were complex and confusing.
16 Respondent stated that at the time he signed the Interim Consent Agreement he was still
17 active in his disease and may not have been totally competent to sign. Respondent was
18 asked his sobriety date. Respondent testified that he did not recall the specific date, but
19 it was approximately one week before he started treatment – the first week in September
20 of 2003.

21 13. Respondent stated that he felt he did not violate the spirit of the Interim
22 Consent Agreement because it required that he get treatment and he got treatment.
23 Respondent was asked if that was what the Interim Consent Agreement said or did it say
24 that he was to go to Banner, that he would comply with recommendations made by
25 Banner and that he would not practice until he had completed treatment at Banner and

1 applied to the Board for permission to return to practice. Respondent testified that the
2 Board's recitation of the terms of the Interim Consent Agreement was correct.

3 14. Respondent was asked if his recovery was currently being monitored by
4 any entity or facility. He stated that his recovery was not being monitored. Respondent
5 testified that he attempted to enroll in the program offered by his current employer, but
6 was told that because he did not have an active license, he could not participate.
7 Respondent stated that he did the hair test because he believed it offered a valid test of a
8 previous three-month period and he had Desert Canyon do the test to show that he had
9 not relapsed.

10 15. Respondent was asked if he is undergoing any group therapy or attending
11 any support meetings. Respondent stated that he was not. Respondent testified that Dr.
12 Sucher had informed him that he would need to be evaluated by a Board-approved
13 facility in order to determine if he was fit to return to practice and that he had made
14 arrangements to do so.

15 16. Board Staff noted for the Board that, although Respondent had undergone
16 the hair test, that test only searches for five drugs and Respondent's drug of choice is not
17 one of the five.

18 **CONCLUSIONS OF LAW**

19 1. The Arizona Medical Board possesses jurisdiction over the subject matter
20 hereof and over Respondent.

21 2. The Board has received substantial evidence supporting the Findings of
22 Fact described above and said findings constitute unprofessional conduct or other
23 grounds for the Board to take disciplinary action.

24 3. The conduct and circumstances described above constitutes unprofessional
25 conduct pursuant to A.R.S. § 32-1401(26)(r) ("[v]iolating a formal order, probation,

1 consent agreement or stipulation issued or entered into by the board or its executive
2 director under the provisions of this chapter.”)

3 **ORDER**

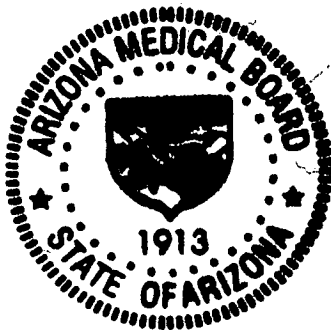
4 Based upon the foregoing Findings of Fact and Conclusions of Law,
5 IT IS HEREBY ORDERED that Respondent is issued a Letter of Reprimand for
6 violating a Board Order.

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

8 Respondent is hereby notified that he has the right to petition for a rehearing or
9 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or
10 review must be filed with the Board's Executive Director within thirty (30) days after
11 service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient
12 reasons for granting a rehearing or review. Service of this order is effective five (5) days
13 after date of mailing. If a motion for rehearing or review is not filed, the Board's Order
14 becomes effective thirty-five (35) days after it is mailed to Respondent.

15 Respondent is further notified that the filing of a motion for rehearing or review is
16 required to preserve any rights of appeal to the Superior Court.

17 DATED this 10th day of September, 2004.



THE ARIZONA MEDICAL BOARD

23 By Barbara J. Kane
24 for BARRY A. CASSIDY, Ph.D., PA-C
25 Executive Director

26 ORIGINAL of the foregoing filed this
27 10 day of September, 2004 with:

28 Arizona Medical Board
29 9545 East Doubletree Ranch Road


1 Scottsdale, Arizona 85258

2 Executed copy of the foregoing
3 mailed by U.S. Certified Mail this
4 10 day of September, 2004, to:

5 Robert Milligan
6 Gallagher & Kennedy, P.A.
7 2575 East Camelback Road
8 Phoenix, Arizona 85016-9225

9 Executed copy of the foregoing
10 mailed by U.S. Mail this
11 10 day of September, 2004, to:

12 Martin L. Meyers, M.D.
13 Address of Record.

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15 _____